

Title 3. Legislature

➔ Chapter 17. Tennessee Charitable Gaming Implementation Law ([Refs & Annos](#))

§ 3-17-101. Short title

This chapter shall be known and may be cited as the "Tennessee Charitable Gaming Implementation Law."

§ 3-17-102. Definitions

As used in this chapter, unless the context otherwise requires:

(1) A "501(c)(3) organization" means an entity that is exempt from federal income taxation under [§ 501\(a\) of the Internal Revenue Code](#) [FN1] as an organization described in [§ 501\(c\)\(3\) of the Internal Revenue Code](#), [FN1] and, for the limited purposes of this chapter, an entity that has been in continuous and active existence for five (5) years immediately preceding the event date listed in an annual event application and has been exempt from federal income taxation under [§ 501\(a\) of the Internal Revenue Code](#) [FN1] as an organization described in any subdivision of [§ 501\(c\) of the Internal Revenue Code](#), [FN1] but, prior to submission of an annual event application, has received exemption from federal taxation as an organization described in [§ 501\(c\)\(3\) of the Internal Revenue Code](#); [FN1]

(2) "Annual event" means an event:

- (A) Authorized by two-thirds vote of all members elected to each house of the general assembly;
- (B) Operated for the benefit of a 501(c)(3) organization located in Tennessee;
- (C) Conducted with a single type of lottery game;
- (D) Conducted on an event date; and
- (E) Conducted at a location within a county where the organization maintains a physical presence;

(3) "Annual event application" means the application made to the secretary of state to operate an annual event;

(4) "Event date" means the day of an annual event. For the purposes of this subdivision (4), "day" means a twenty-four-hour period beginning at twelve o'clock (12:00) midnight and ending at eleven fifty-nine post meridiem (11:59 p.m.);

(5) "Financial accounting" means a report of funds collected and expended for the annual event that is filed after completion of an annual event;

(6) "Person" means any individual, organization, trust, foundation, group, association, partnership, limited liability company, corporation, society, or any combination of them, or any other entity;

(7) "Secretary" means the secretary of state or the secretary of state's authorized representative; and

(8)(A) "Type of lottery game" means a game of chance played by any person eighteen (18) years of age or older, including raffles, reverse raffles, cakewalks and cakewheels, but expressly prohibiting pulltabs, punchboards, bingo, instant bingo, video lottery, instant and on-line lottery games of a type operated by the Tennessee education lottery corporation, keno and games of chance associated with casinos including, but not limited to, slot machines, roulette wheels, and the like;

- (i) For the purpose of this subdivision (8), "bingo" means a specific game of chance in which participants use cards or paper sheets divided into horizontal and vertical spaces, each of which is designated by a letter and a

number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;

(ii) For the purpose of this subdivision (8), "cakewalks" and "cakewheels" mean a game of chance in which a participant is required to make a wager to select, or to receive, a prize with the winner determined by random selection through walking to music, colored space, a spinning wheel, drawing or any combination thereof;

(iii) For the purpose of this subdivision (8), "raffles" and "reverse raffles" mean a game of chance in which a participant is required to purchase a ticket, share, chance or similar record for a chance to win a prize, with the winner to be determined by random drawing;

(iv) For the purpose of this subdivision (8), "video lottery" means a lottery that allows a game to be played utilizing an electronic computer and an interactive terminal device, equipped with a video screen and keys, a keyboard or other equipment allowing input by an individual player, into which the player inserts coins or currency as consideration in order for play to be available, and through which terminal device, the player may receive free games or a voucher that can be redeemed for a cash or non-cash prize, or nothing, determined wholly or predominantly by chance;

(B) Any type of lottery game not expressly authorized in this subdivision (8) is prohibited.

[FN1] [26 U.S.C.A. § 501](#).

§ 3-17-103. Annual events; applications; frequency; joint events; proceeds; omnibus list; authorization; financial accounting

(a)(1) A 501(c)(3) organization seeking to operate an annual event for the benefit of such organization located in this state shall submit an annual event application to the secretary:

(A) By twelve o'clock (12:00) noon central daylight time (CDT) on April 20, 2004, for the annual event period beginning July 1, 2004, and ending June 30, 2005;

(B) Except as provided in subdivision (a)(1)(D), prior to November 1, 2004, for the annual event period beginning July 1, 2005, and ending June 30, 2006;

(C) By December 31, 2006, and by December 31 in subsequent years, for subsequent annual event periods;

(D) Notwithstanding any provision of this chapter to the contrary, a 501(c)(3) organization seeking to operate an annual event for the annual event period beginning July 1, 2005, and ending June 30, 2006, shall submit an annual event application to the secretary by twelve o'clock (12:00) noon central daylight time (CDT) on May 25, 2005 and

(E) Notwithstanding any provision of this chapter to the contrary, by April 14, 2006, for the annual event period beginning July 1, 2006, and ending on June 30, 2007.

(F) Notwithstanding any provision of this chapter to the contrary, within fifteen (15) calendar days after April 11, 2007, for the annual event period beginning July 1, 2007, and ending June 30, 2008.

For purposes of the submission deadline, the postmark date on the annual event application shall be considered the date of submission.

(2) A 501(c)(3) organization shall have been in continuous and active existence as a 501(c)(3) organization located in Tennessee for at least five (5) years immediately preceding the event date listed in the annual event application.

(3)(A) A 501(c)(3) organization, including chapters or affiliates operating under the same tax exemption, shall not operate more than one (1) annual event within any twelve-month period beginning July 1 and ending June 30.

(B)(i) An annual event shall be operated at a single location within a county in Tennessee where the 501(c)(3) organization has a physical presence, as disclosed pursuant to [§ 3-17-104\(a\)\(2\)\(A\)](#); or a 501(c)(3) organization may operate an annual event on the same day in one (1) county where it has a physical presence in each grand division of the state as described in [§§ 4-1-201 -- 4-1-204](#). Such location, or locations, shall be listed as the location of the annual event in the annual event application pursuant to [§ 3-17-104\(a\)\(16\)](#).

(ii) Nothing in this subdivision (a)(3)(B) shall be construed to limit the ability of an organization to sell tickets, shares, chances or similar records for an authorized annual event in any political subdivision of this state.

(iii) No more than two (2) annual events per calendar month shall be held at the same location in each county during any annual event period. For the purpose of this subdivision (a)(3)(B), "location" means a single physical site in a county identified by an address or unique descriptive feature.

(C) Notwithstanding any provision of this chapter to the contrary, a § 501(c)(3) organization authorized to conduct an annual event may change the location of the annual event if the location listed on the annual event application is subsequently unavailable during the time in which the annual event was to be conducted and if the following conditions are satisfied:

(i) Written notice is given to the secretary of state, Tennessee bureau of investigation and district attorney for the judicial district in which the annual event is to be conducted stating that the listed location is unavailable, the reason for unavailability, and the new location;

(ii) Sufficient public notice is given by means of posting notice on the organization's website, if any, and by publication in a newspaper of general circulation in the county in which the annual event will be conducted; and

(iii) The new location complies with the provisions of § 3-17- 103(a)(3)(B)(iii).

(4)(A) A 501(c)(3) organization may operate an annual event in conjunction with one (1) or more 501(c)(3) organizations under the following circumstances:

(i) Each 501(c)(3) organization files an independent annual event application including, but not limited to, the appropriate application fee, in accordance with the provisions of this chapter;

(ii) Each 501(c)(3) organization submits, with the annual event application, a joint statement of authorization indicating the intention to conduct a joint annual event and listing all organizations participating in such joint event; and

(iii) Each 501(c)(3) applicant is in compliance with the provisions of this chapter and is eligible for inclusion on the omnibus list.

(B) If one (1) or more 501(c)(3) organizations are not eligible for inclusion on the omnibus list, or fail to timely file an annual event application, all applicants for a joint annual event shall be excluded from the omnibus list. No provision of this subdivision (a)(4) shall be construed as authorizing a 501(c)(3) organization participating in a joint event to operate, participate or conduct, jointly or otherwise, more than one (1) annual event within any twelve-month period beginning July 1 and ending June 30.

(5)(A)(i) Except as otherwise provided in this subdivision (a)(5), a 501(c)(3) organization authorized to conduct an annual event pursuant to the provisions of this chapter shall not employ, contract with, or otherwise utilize the services of any person including, but not limited to, any management company, consultant or other entity, to manage, conduct or operate any aspect of an annual event. An authorized annual event shall be managed, conducted

and operated only by bona fide directors, officers or employees of a 501(c)(3) organization who:

(a) Manage, conduct or operate only one (1) such annual event in any twelve-month period beginning on July 1 and ending on June 30 each year for any 501(c)(3) organization; and

(b) Receive no compensation for duties associated with the annual event from the proceeds of the annual event except compensation otherwise due to such person in the normal course of business. In no event shall such person's normal compensation, or any other form of compensation or benefit including, but not limited to, any bonus payment or any other form of supplemental payment, be based upon or determined by reference to a percentage of the proceeds derived from the operation of the annual event, the number of people participating in the annual event or any other factor related to the annual event.

(ii) Unpaid volunteer personnel, including members of a 501(c)(3) organization, may be utilized by a 501(c)(3) organization to manage, conduct or operate an annual event.

(B)(i) Nothing in this subdivision (a)(5) or [§ 39-17-654\(b\)](#) shall be construed as prohibiting a 501(c)(3) organization from purchasing, leasing or accepting donations of prizes, facilities, locations, advertising services, printing services, telephone services and any records, devices or other supplies necessary to conduct an authorized annual event; provided, that the compensation paid for such purchases or leases shall not be at a price greater than fair market value and shall not be based on a percentage of the proceeds of an annual event or by any other contingency agreement based on the proceeds of an annual event.

(ii) No 501(c)(3) organization shall purchase or lease prizes, facilities, locations, advertising services, printing services, telephone services and any records, devices or other supplies necessary to conduct an authorized annual event from any director, officer or employee of the 501(c)(3) organization.

(iii) Deleted by 2005 Pub.Acts, c. 207, [§ 5](#), eff. May 24, 2005.

(6)(A) Except as provided in subdivision (a)(6)(B), a 501(c)(3) organization authorized to conduct an annual event pursuant to the provisions of this chapter shall return all of the gross proceeds, less any amount expended pursuant to subdivision (a)(5)(B), to the organization for the purposes or programs described in [§ 3-17-104\(a\)\(19\)](#), but in any event, a 501(c)(3) organization shall return at least twenty-five percent (25%) of gross proceeds to the organization for the purposes or programs described in [§ 3-17-104\(a\)\(19\)](#).

(B) A 501(c)(3) organization that fails to return at least twenty-five percent (25%) of gross proceeds from the annual event to the purposes or programs described in [§ 3-17-104\(a\)\(19\)](#) in any year shall file notice with the secretary on a form prescribed by the secretary. If, in the sound discretion of the secretary, the organization was not at fault in failing to return the required percentage, the organization shall be allowed to file an annual event application for the next annual event period; provided, that if an organization fails to return the required percentage in two (2) consecutive annual event periods, the organization shall be permanently disqualified from filing annual event applications. If an organization is not permitted by the secretary to file an event application pursuant to this subsection, the organization may request a review and appeal pursuant to the procedures set forth in [§ 3-17-105\(g\)](#) and [\(h\)](#).

(C) As used in this subdivision (a)(6), gross proceeds shall not include revenue disclosed as the fair market value of any donated prizes, goods and services.

(b)(1) The secretary shall review all annual event applications timely submitted and shall transmit an omnibus list of qualifying applicants to the clerk of the senate and the clerk of the house of representatives in an electronic format, as is required by the respective clerks, on or before May 4, 2004, and by March 1 in any subsequent year. Such omnibus list shall include, at a minimum, the name of the 501(c)(3) organization, the name of the event, the type of lottery game, the event date for the event and the location, or locations, of the event. Such omnibus list shall list 501(c)(3) organizations alphabetically by county in which the annual event is proposed to be operated.

(2) In addition to the omnibus list transferred to the clerk of the senate and the clerk of the house of representatives on or before May 4, 2004, the secretary shall transfer a new omnibus list listing any qualifying amended applicants for the annual event period beginning July 1, 2004, and ending June 30, 2005. Such revised list shall be transferred in a manner consistent with subsection (b)(1) on or before May 13, 2004.

(3) In addition to the omnibus list transferred to the clerk of the senate and the clerk of the house of representatives by March 1, 2005, the secretary shall transfer an additional omnibus list listing any organizations approved pursuant to subdivision (a)(1)(D) and subsection (f) for the annual event period beginning July 1, 2005, and ending June 30, 2006. The list shall be transferred in a manner consistent with subdivision (b)(1) by twelve o'clock (12:00) noon central daylight time (CDT) on May 26, 2005.

(4) In addition to the omnibus list transferred to the clerk of the senate and the clerk of the house of representatives by March 1, 2005, the secretary shall transfer an additional omnibus list listing any organizations approved pursuant to subdivision (a)(1)(F) and subsection (f) for the annual event period beginning July 1, 2007, and ending June 30, 2008. The list shall be transferred in a manner consistent with (b)(1) by twelve o'clock (12:00) noon central daylight time (CDT) within thirty (30) calendar days after April 11, 2007.

(c) Upon authorization by the general assembly, the clerk of the house last approving such authorization shall transmit a copy of such authorization to the secretary and to each district attorney general. The secretary shall transmit such authorization to each authorized 501(c)(3) organization at the mailing address listed in such organization's annual event application; provided, that in the case of an organization with multiple chapters, branches or affiliates in Tennessee, such authorization shall be transmitted only to the primary mailing address of the applicant. Such authorization shall be posted on the web site of the secretary with such additional information as the secretary deems appropriate. At a minimum, the secretary shall post the name of the 501(c)(3) organization, the name of the event, the type of lottery game, the event date for the event and the location, or locations, of the event.

(d)(1)(A) An authorized annual event shall be held within twenty-eight (28) calendar days of the event date listed in the annual event application; provided, that nothing in this subdivision (d)(1) shall be construed as allowing two (2) annual events in any one-year period or as allowing a § 501(c)(3) organization to operate an annual event at authorized multiple locations on separate days.

(B) A 501(c)(3) organization shall give notice to each chief law enforcement officer of the county or municipality in which the annual event shall be conducted one hundred thirty (130) days prior to the event date listed in the annual event application; provided, that if the event date is within one hundred thirty (130) days from notification of authorization to conduct an annual event, the 501(c)(3) organization shall immediately, upon receipt of such notification and prior to the commencement of selling any tickets, shares, chances or similar records, give notice to the chief law enforcement officer of each county or municipality in which the annual event shall be conducted. In accordance with subdivision (d)(1)(A), if the actual event date is different than the event date listed in the annual event application, a 501(c)(3) organization shall give an additional notice to each chief law enforcement officer of the county or municipality in which the annual event shall be conducted prior to conducting the annual event. For the purposes of this subdivision (d)(1)(B), "notice" means a letter sent by certified mail, or by actual physical delivery of a letter to the chief law enforcement officer or such officer's designee, containing, at a minimum, the following information:

- (i) The name of the 501(c)(3) organization;
- (ii) The name of the event;
- (iii) The location of the event, including the physical address where the annual event will be conducted;
- (iv) The type of lottery game to be conducted;

(v) The event date for the event listed in the annual event application;

(vi) If applicable, the actual event date for the annual event if different than the event date listed in the annual event application;

(vii) If applicable, additional locations of the event, including the physical address where the annual event will be conducted, if such event will be operated at authorized multiple locations;

(viii) The name, address and telephone number of the 501(c)(3) organization's chair, president or chief administrative officer; and

(ix) If applicable, the name, address and telephone number of the person responsible for the operation of the annual event for the 501(c)(3) organization, if different than the organization's chair, president or chief administrative officer.

(2) Except as provided in subdivision (d)(3), upon receipt of authorization from the secretary pursuant to subsection (c), a 501(c)(3) organization may conduct all necessary activities for such event including, but not limited to, planning, advertising, promoting, printing of materials and tickets, shares, chances or similar records and the transportation of such records and other devices.

(3) A 501(c)(3) organization, or any person authorized pursuant to subdivision (a)(5)(A) on behalf of the 501(c)(3) organization, may sell tickets, shares, chances or similar records on the actual date of the annual event and for one hundred twenty (120) days immediately preceding the event date listed in the application and for any period after the event date listed in the annual event application but prior to the actual date of the annual event if such actual date is after the event date in accordance with the provisions of subdivision (d)(1). No person shall sell tickets, shares, chances or similar records outside of the period authorized by this subdivision (d)(3). Notwithstanding any provision of this chapter to the contrary, the secretary shall establish rules and regulations concerning modification of the actual dollar amount at which a ticket, share, chance or other similar record shall be sold by a 501(c)(3) organization authorized to conduct an annual event; provided, that only one (1) such modification shall be made prior to the sale of any ticket, share, chance or other similar record and only in an amount within fifty dollars (\$50.00) of the actual dollar amount disclosed pursuant to [§ 3-17-104\(a\)\(14\)\(B\)](#).

(e)(1) Within ninety (90) days following the event date listed in the annual event application, a financial accounting as required pursuant to the provisions of [§ 3-17-106](#) shall be submitted by the organization to the secretary.

(2) For purposes of this chapter, the postmark date on the financial accounting shall be considered the date of submission.

(3) The secretary shall post such accounting, or a synopsis of such accounting, on the web page of the secretary.

(f)(1) Notwithstanding any provision of this chapter to the contrary, a 501(c)(3) organization seeking to operate an annual event for the benefit of that organization located in this state that does not intend to raise gross revenue from such annual event exceeding five thousand dollars (\$5,000) shall submit an annual event application to the secretary:

(A) By twelve o'clock (12:00) noon central daylight time (CDT) on May 25, 2005, for the annual event period beginning July 1, 2005, and ending June 30, 2006;

(B) By April 14, 2006, for the annual event period beginning July 1, 2006, and ending on June 30, 2007; and

(C) Within fifteen (15) calendar days after April 11, 2007, for the annual event period beginning July 1, 2007, and ending June 30, 2008; and

(D) By December 31, 2007, and by December 31 in subsequent years, for subsequent annual event periods.

(2) For purposes of the submission deadline provided in subdivision (f)(1)(A), an annual event application shall not be considered submitted to the secretary until in the physical possession of the secretary as evidenced by the secretary's date and time endorsement on such documentation.

(3) For purposes of the submission deadline provided in subdivision (f)(1)(B), the postmark date on the annual event application shall be considered the date of filing.

§ 3-17-104. Annual event application deadlines; contents and attachments; uniform application form

(a) All annual event applications shall be submitted to the secretary. For the annual event period beginning July 1, 2004, and ending June 30, 2005, such applications shall be submitted by twelve o'clock (12:00) noon central daylight time (CDT) on April 20, 2004. Except as provided in [§ 3-17-103](#), for the annual event period beginning July 1, 2005, and ending June 30, 2006, such applications shall be submitted from July 1, 2004, through October 31, 2004. Except as provided in [§ 3-17-103](#), for subsequent annual event periods, such applications shall be submitted from July 1 through December 31 in any subsequent year. Such applications shall include:

(1) The name of the 501(c)(3) organization and the purpose for which it was organized;

(2)(A) The physical address in Tennessee of the 501(c)(3) organization; provided, however, that if the organization has multiple chapters or affiliates in Tennessee operating under the same tax exemption, the physical addresses of such multiple locations. For the purposes of this chapter, a post office box, or similar address at a mail or package delivery service, shall not be considered a physical address; and

(B) If the principal office of the 501(c)(3) organization is outside Tennessee, the physical address of such principal office;

(3)(A) The mailing address, in Tennessee, of the 501(c)(3) organization. For the purposes of this chapter, such mailing address shall serve as the primary mailing address of the applicant; provided, however, that if the organization has multiple chapters or affiliates in Tennessee operating under the same tax exemption, the mailing addresses of such multiple locations;

(B) If the principal office of the 501(c)(3) organization is outside Tennessee, the mailing address of such principal office; and

(C) The 501(c)(3) organization shall designate a named person who is a citizen of Tennessee to receive process at the primary mailing address of the applicant. The name of such person shall be listed in the annual event application;

(4)(A) The telephone number in Tennessee of the 501(c)(3) organization or its chair, president or chief administrative officer; and

(B) If the principal office of the 501(c)(3) organization is outside Tennessee, the telephone number of such principal office;

(5) The place where, and the date when, the organization was legally established and documentation from the internal revenue service recognizing the 501(c)(3) organization's tax exempt status. Such documentation shall be supported by an affidavit from the 501(c)(3) organization's chair, president or chief administrative officer affirming that the organization's 501(c)(3) status has not been revoked;

(6) A copy of organizational documents and any other documents that prove to the satisfaction of the secretary that the 501(c)(3) organization has been in continuous and active existence as a 501(c)(3) organization located in Tennessee for at least five (5) years immediately preceding the event date listed in the annual event application. The

secretary may promulgate rules and regulations as to the type and quantity of documentation necessary for proof of continuous and active existence. Such documentation shall be supported by an affidavit signed by the 501(c)(3) organization's chair, president or chief administrative officer and secretary affirming that the organization has been in continuous and active existence in Tennessee for at least five (5) years immediately preceding the event date listed in the annual event application;

(7) Deleted by 2007 Pub.Acts, c. 18, [§ 9](#), eff. April 11, 2007.

(8)(A) For annual event applications submitted prior to November 1, 2004:

(i) A copy of the 501(c)(3) [FN1] organization's last five (5) annual reports filed with the Internal Revenue Service, Form 990, 990-EZ, or 990-PF, and any attached schedules for the five-year period immediately preceding the annual event application; or

(ii) If the organization has not filed any such annual reports with the Internal Revenue Service or has not filed five (5) consecutive annual reports for the five-year period immediately preceding the annual event application, an affidavit from the 501(c)(3) [FN1] organization's chair, president or chief administrative officer affirming that the organization has not filed any annual reports or has not filed five (5) consecutive annual reports and shall begin to file annual reports as required by the provisions of this chapter. In addition, any such organization shall submit copies of any annual reports filed with the Internal Revenue Service within the five-year period preceding the application;

(B) For annual event applications submitted between July 1, 2005, and June 30, 2006:

(i) A copy of the 501(c)(3) [FN1] organization's last five (5) annual reports filed with the Internal Revenue Service, Form 990, 990-EZ, or 990-PF, and any attached schedules for the five-year period immediately preceding the annual event application; or

(ii) If the organization has not filed five (5) consecutive annual reports for the five-year period immediately preceding the annual event application, a copy of the 501(c)(3) [FN1] organization's annual report filed with the Internal Revenue Service, Form 990, 990-EZ, or 990-PF, for the preceding year and any attached schedules and copies of any other annual reports filed with the Internal Revenue Service within the five-year period preceding the application;

(C)(i) For annual event applications submitted on and after July 1, 2006;

(a) A copy of the 501(c)(3) [FN1] organization's last annual report filed with the Internal Revenue Service, Form 990, 990-EZ, or 990-PF, and any attached schedules for the organization's tax year ending immediately preceding the annual event application; or

(b) If the organization has not filed an annual report with the Internal Revenue Service for the organization's tax year ending immediately preceding the annual event application, an affidavit from the 501(c)(3) [FN1] organization's chair, president or chief administrative officer affirming that the organization has not filed an annual report and shall begin to file annual reports as required by the provisions of this chapter; provided, that an organization may submit an affidavit under this subdivision (a)(8)(C)(i)(b) in lieu of the requirements of subdivision (a)(8)(C)(i)(a) only one (1) time.

(ii) In addition to the requirements of this subdivision (a)(8)(C), the secretary may request copies of the 501(c)(3) organization's last five (5) annual reports filed with the Internal Revenue Service, Form 990, 990-EZ, or 990-PF, and any attached schedules for the five-year period immediately preceding the annual event application. An organization shall submit to the secretary any documents requested pursuant to this subdivision (a)(8)(C)(ii), if such documents are available and, if such documents are not available, such organization shall submit an affidavit from the 501(c)(3) organization's chair, president or chief administrative officer affirming

that such documents are unavailable and stating the reason for such documents' unavailability.

(9) A waiver of privacy rights, on a form provided by the secretary, which will allow posting of documents on the secretary's website and inspection by any member of the public of tax forms and documents filed pursuant to this chapter;

(10) The names and addresses of the officers, directors, trustees, and the principal salaried executive staff officer of the 501(c)(3) organization;

(11) A statement that no officer, director, trustee, or the principal salaried executive staff officer of the 501(c)(3) organization has been convicted of a violation of [§ 39-14-103](#), [§ 39-14-104](#), [§ 39-14-105](#), [§ 39-16-702](#), [§ 39-16-703](#), [title 39, chapter 17](#), parts 5 or 6, or a similar offense in another jurisdiction;

(12) A copy of the minutes from the meeting of the 501(c)(3) organization, signed and attested by the board secretary, indicating the intent to operate an annual event if authorized by the general assembly; provided, that:

(A) If a 501(c)(3) organization's by-laws authorize an executive committee to act on behalf of the full board, such minutes shall reflect an affirmative vote by a majority of the executive committee of the board of directors or trustees of the organization to operate such annual event. In lieu of a copy of the minutes, an organization may submit an affidavit signed by all members of the executive committee of the board of directors or trustees of the organization indicating the intent to operate an annual event, if authorized by the general assembly; and

(B) If a 501(c)(3) organization's by-laws do not authorize such action by an executive committee, such minutes shall reflect approval by the number of board members required by the charter and bylaws to take action under [§ 48-58-205](#) to operate such annual event. In lieu of a copy of the minutes, an organization may submit an affidavit signed by all members of the board of directors indicating the intent to operate an annual event, if authorized by the general assembly;

(13) The name of the annual event;

(14)(A) The single type of lottery game to be conducted and a description of the game; and

(B) The estimated number of tickets, shares, chances or other similar records to be offered and the actual dollar amount at which a ticket, share, chance or other similar record shall be sold;

(15) The event date; provided, however, that the event date shall be selected within a twelve-month period beginning July 1 following the application deadline and ending the next June 30;

(16) The location or locations of the annual event, including the physical site in each county identified by an address or unique descriptive feature at which the annual event will be operated in accordance with [§ 3-17-103\(a\)\(3\)\(B\)\(i\)](#);

(17) If applicable, the event date of the last annual event held, or to be held, by the organization;

(18) If applicable, in accordance with [§ 3-17-103\(a\)\(4\)\(ii\)](#), a joint statement of authorization indicating the intention to conduct a joint annual event and listing all organizations participating in such joint event. For the purposes of this subdivision (a)(18), the applicant shall list each organization that will participate in the joint event and shall include each such organization's physical address and mailing address in Tennessee;

(19) The charitable, religious, educational, scientific or other humanitarian purposes or programs for which the funds derived from the annual event shall be used;

(20) The names of the individuals or officers of the organization who will have final responsibility for the custody of the funds derived from the annual event;

(21) The names of the individuals or officers of the organization responsible for the final distribution of the funds derived from the annual event; and

(22) The appropriate application fee.

(b) The secretary shall develop a uniform application form for annual event applications. The secretary is encouraged to utilize, to every extent possible, web-based forms and procedures for annual event applications.

(c)(1) An application fee shall be paid at the time of submission of an annual event application. Annual event applications shall not be accepted by the secretary unless accompanied by the appropriate application fee.

(2) The secretary shall collect a reasonable fee for annual event applications. No fee shall exceed seven hundred dollars (\$700). The secretary may establish a fee structure providing a reduced fee for organizations submitting annual event applications pursuant to subsection (e) and [§ 3-17-103\(f\)](#); provided, that for the annual event period beginning July 1, 2005, and ending June 30, 2006, such reduced fee shall be one hundred fifty dollars (\$150). Funds collected under the provisions of this chapter shall be used by the secretary and the Tennessee bureau of investigation to defray the cost of administering this chapter, including, but not limited to, the cost of investigations pursuant to [§ 3-17-113](#).

(3) Annual event application fees are nonrefundable; provided, that an organization that filed an annual event application and paid the appropriate application fee prior to July 1, 2005, but failed to qualify for inclusion on an omnibus list due to the fact that the organization had not sought formal recognition of 501(c)(3) status with the Internal Revenue Service shall be issued a credit for filing one (1) annual event application to be used by December 31, 2008, and after such organization files the appropriate documentation with the Internal Revenue Service and otherwise complies with the provisions of this part.

(4) No additional application fee shall be required from any organization that previously submitted an annual event application for the same organization, that was subsequently rejected, during the application period ending November 1, 2004. This subdivision (c)(4) only applies to applications submitted pursuant to [§ 3-17-103\(a\)\(1\)\(D\)](#) or [\(f\)\(1\)\(A\)](#).

(d) All annual event applications shall be signed by the 501(c)(3) organization's chair, president or chief administrative officer and the preparer of the application. Such persons shall certify under oath and subject to criminal penalties, including perjury, that the information contained in the annual event application is true and accurate.

(e)(1) Notwithstanding any other provision of this section to the contrary, a 501(c)(3) organization filing an annual event application pursuant to [§ 3-17-103\(f\)](#) shall submit, on a form prescribed by the secretary, the following information:

(A) The name and mailing address of the 501(c)(3) organization;

(B) The name of the event;

(C) The date of the event;

(D) The location of the event;

(E) A description of the type of lottery game to be conducted;

(F) A description of the charitable use of the proceeds from the event;

(G) The name and telephone number of a contact person for the event;

(H) A copy of the organization's determination letter from the Internal Revenue Service showing that the organization is exempt from federal income taxation under [§ 501\(c\)\(3\) of the Internal Revenue Code](#);

(I) A sworn statement that the organization has been in continuous and active existence as a 501(c)(3) organization located in Tennessee for at least five (5) years immediately preceding the event date listed in the annual event application; and

(J) A sworn statement that the organization does not intend to gross in excess of five thousand dollars (\$5,000) from the event, if authorized by the general assembly.

(2) All provisions of this chapter not inconsistent with this subsection (e) shall apply to a 501(c)(3) organization submitting an application pursuant to [§ 3-17-103\(f\)](#).

[FN1] [26 U.S.C.A. § 501\(c\)\(3\)](#).

[§ 3-17-105. Annual event application review; amendments; omnibus list; claims commission review; damages](#)

(a) The secretary shall examine each annual event application submitted under this chapter for inclusion on the omnibus list. An annual event shall be included on the omnibus list if:

(1) All annual event application filing requirements of [§ 3-17-104](#) are met;

(2) The secretary determines that the 501(c)(3) organization has been recognized by the internal revenue service as a tax exempt 501(c)(3) organization and that such exemption is valid at the time of filing an annual event application;

(3) The secretary determines that the 501(c)(3) organization has been in continuous and active existence as a 501(c)(3) organization located in Tennessee for at least five (5) years immediately preceding the event date listed in the annual event application; and

(4) The type of lottery game is authorized by the provisions of this chapter and [Article XI, § 5 of the Constitution of Tennessee](#).

(b)(1) The secretary shall establish rules and regulations concerning the acceptance of amendments to annual event applications otherwise consistent with the provisions of this chapter including, but not limited to, amendments concerning conflicting locations for an annual event.

(2) Notwithstanding any provision of law to the contrary, an organization may submit a request for a location or date change, regardless of whether such location or date is in actual conflict with another organization, to the secretary no later than twelve o'clock (12:00) noon central daylight Time (CDT) on May 10, 2004, and no later than twelve o'clock (12:00) noon central standard time (CST) on the first day in February in any subsequent year.

(c) The secretary shall include all qualified annual event applicants on an omnibus list to be transmitted to the general assembly pursuant to the provisions of [§ 3-17-103\(b\)](#).

(d)(1) Except as provided in subdivision (d)(2)(B), no extension of time shall be granted for submission, or completion, of an annual event application after the application deadline has passed for the appropriate annual event period.

(2)(A) Except as provided in subdivision (d)(2)(B), the secretary shall have no authority to accept, and shall not accept, an annual event application, or an amendment to an annual event application, submitted after the application deadline has passed for the appropriate annual event period as established pursuant to [§ 3-17-103\(a\)\(1\)](#) or [\(f\)](#).

(B) For annual event applications submitted by twelve o'clock (12:00) noon central daylight time (CDT) on April 20, 2004, for the annual event period beginning July 1, 2004, and ending June 30, 2005, prior to November 1, 2004, for the annual event period beginning July 1, 2005, and ending June 30, 2006, and prior to January 1 in any subsequent year for subsequent annual event periods, the secretary shall notify any organization that would not otherwise be included on the omnibus list of the reason, or reasons, why such organization would not be included. Such notification shall be made prior to May 10, 2004, and by January 15th in any subsequent year. Any such organization may submit an amended annual event application to the secretary no later than twelve o'clock (12:00) noon central daylight time (CDT) on May 10, 2004, and no later than twelve o'clock (12:00) noon central standard time (CST) on the first day in February in any subsequent year. Any such annual event shall be included on the omnibus list if the amended annual event application complies with the provisions of this chapter.

(e) An annual event application may be permanently withdrawn prior to the date of transmission of the omnibus list to the general assembly; provided, that once withdrawn, the 501(c)(3) organization may not resubmit an annual event application for the annual event period in which the previously submitted application was withdrawn.

(f) If an annual event application is not included in the omnibus list, the secretary shall transmit notification to the applicant stating the basis for such non-inclusion. The secretary shall transmit such notice to the applicant at the primary mailing address listed in such applicant's annual event application.

(g) An applicant whose application is not included in the omnibus list may request in writing that the secretary reconsider the determination; provided, that such written request is filed with the secretary within ten (10) calendar days from the date of notification of non-inclusion. The secretary shall reconsider such determination and issue a final decision within ten (10) calendar days of receipt of such written request for reconsideration.

(h)(1) Review of final decisions of the secretary shall be heard by the Tennessee claims commission in accordance with rules and regulations promulgated by the commission. It is the intent of the general assembly that reviews pursuant to this subsection (h) shall be heard on an expedited basis. The venue for any such review shall be in the middle division of the Tennessee claims commission.

(2) A petition for review shall be filed not later than ten (10) calendar days after issuance of the final decision by the secretary. Copies of the petition shall be served upon the secretary and the attorney general and reporter.

(3) The review shall be conducted by the claims commission on the small claims docket pursuant to [§ 9-8-403](#) and shall be confined to the record of proceedings before the secretary.

(4) The claims commission shall issue written findings of fact and conclusions of law as to whether the secretary's decision was:

(A) Clearly erroneous; or

(B) Arbitrary and capricious.

(5) The claims commission shall have no authority to award monetary damages in any review made pursuant to this section.

§ 3-17-106. Annual event financial accounting; joint events; cancellations

(a) An organization authorized by the general assembly to operate an annual event shall file, within ninety (90) calendar days following the actual event date, a financial accounting with the secretary in accordance with the provisions of this section.

(b) For events grossing thirty thousand dollars (\$30,000) or less, the organization shall file a financial accounting, on

a form prescribed by the secretary, showing the following:

- (1) The gross amount of money received from the annual event;
- (2) The amount of money expended by the organization including, for amounts exceeding one hundred dollars (\$100), the name and address of the payee, the category of expense, and the amount expended;
- (3) The amount of money disbursed, or to be disbursed, to the charitable programs or purposes of the 501(c)(3) organization including, but not limited to, sufficient documentation indicating that all of the gross proceeds, less any amount expended pursuant to [§ 3-17-103\(a\)\(5\)\(B\)](#), have been used, or have been earmarked, for the purposes or programs described in [§ 3-17-104\(a\)\(19\)](#); and
- (4) A list of all prize winners, including their names and addresses, of cash, goods or services valued at more than fifty dollars (\$50.00) and the prize received.

(c) For events grossing more than fifty thousand dollars (\$50,000), the organization shall file an audited financial statement prepared by an independent certified public accountant or an independent public accountant, on a form prescribed by the secretary, showing the following:

- (1) The gross amount of money received from the proceeds of the annual event;
 - (2) The amount of money disbursed, or to be disbursed, to the charitable programs or purposes of the 501(c)(3) organization including, but not limited to, sufficient documentation indicating that all of the gross proceeds, less any amount expended pursuant to [§ 3-17-103\(a\)\(5\)\(B\)](#), have been used, or have been earmarked, for the purposes or programs described in [§ 3-17-104\(a\)\(19\)](#);
 - (3) An itemized list, including the name and address of the payee, of the amounts spent for all expenses; provided, that individual expenses of one hundred dollars (\$100) or less may be listed as miscellaneous expenses, by category, so long as the aggregate sum of all miscellaneous expenses is less than five thousand dollars (\$5,000); and
 - (4) A list of all prize winners, including their names and addresses, of cash, goods or services valued at more than fifty dollars (\$50.00) and the prize received.
- (d) In the case of an annual event held jointly by two (2) or more 501(c)(3) organizations as provided in [§ 3-17-103\(a\)\(4\)](#), the financial accounting filed pursuant to this section shall be based on the gross amount of money jointly received and shall, in addition to the applicable requirements of subsection (b) or (c), show the amount disbursed, or to be disbursed, to each participating 501(c)(3) organization. Such organizations may file the same financial accounting; provided, that the signature requirements of subsection (e) are satisfied.

(e) For events grossing thirty thousand dollars (\$30,000) or less, all financial accountings required by this section shall be signed by the chair, president or chief administrative officer of the 501(c)(3) organization and the preparer of the report, or, if the chair, president or chief administrative officer is the preparer of the report, by such person and by one additional officer of the 501(c)(3) organization. For events grossing more than thirty thousand dollars (\$30,000), all financial accountings required by this section shall be signed by the chair, president or chief administrative officer of the 501(c)(3) organization and the preparer of the report. Such persons shall certify under oath and subject to criminal penalties, including perjury, that the information contained in the report is a true and accurate accounting of the funds received and expended during operation of the annual event.

(f)(1) A 501(c)(3) organization that has received authorization to conduct an annual event, or conduct an annual event at multiple locations, may, at the discretion of the organization, cancel an annual event, or, if authorized at multiple locations, cancel a location of the annual event; provided, that:

- (A) An affidavit from the 501(c)(3) organization's chair, president or chief administrative officer is filed with the

secretary and the chief law enforcement officer of the county or municipality stating that the annual event, or a location of a multiple location annual event, is cancelled, and the nature of the cancellation, within ten (10) calendar days of the decision to cancel the event or location. Such cancellation shall be posted on the web site of the secretary. Notwithstanding any provision of this chapter to the contrary, if a single location annual event is cancelled, no other notice to the chief law enforcement officer of the county or municipality or a financial accounting shall be required, except as provided in subdivision (f)(1)(B); if a location of a multiple location annual event is cancelled, no other notice to the chief law enforcement officer of the county or municipality of the cancelled location is required; and

(B) If cancellation occurs after the commencement of the sale of tickets, shares, chances or similar records, a full refund is offered for at least ninety (90) days following cancellation; provided, that if a location of a multiple location annual event is cancelled, only tickets, shares, chances or similar records for the cancelled location shall be required to be offered for at least ninety (90) days following cancellation. A 501(c)(3) organization shall give reasonable public notice of cancellation in the area in which tickets, shares, chances or similar records were sold, including the terms of the refund offered. Such terms shall be included in the affidavit required pursuant to subdivision (f)(1)(A), including a mailing or physical address to submit a refund claim; and, within ninety (90) days of cancellation of an annual event, or a location of a multiple location annual event, the organization shall file an accounting of tickets sold, refunds made and ticket proceeds remaining with the secretary and the chief law enforcement officer of the county or municipality. Any remaining ticket proceeds shall be used in furtherance of the charitable purposes or programs described in [§ 3-17-104\(a\)\(19\)](#) of the organization's annual event application.

(2) No annual event cancelled pursuant to the provisions of this subsection (f) may be conducted during the annual event period. No multiple location annual event for which a location is cancelled pursuant to the provisions of this subsection (f) may be conducted at such cancelled location during the annual event period.

(g)(1) Notwithstanding any other provision of this section to the contrary, for authorized annual events conducted pursuant to applications filed under the provisions of [§§ 3-17-103\(f\)](#) and [3-17-104\(e\)](#), the organization shall file a financial accounting, on a form prescribed by the secretary, including the following:

(A) The gross amount of money received from the annual event;

(B) The amount expended for prizes and administrative costs; and

(C) The amount of money disbursed, or to be disbursed, to the charitable programs or purposes of the 501(c)(3) organization.

(2)(A) If the secretary determines that the gross revenue reported in subdivision (g)(1) exceeds five thousand (\$5,000) dollars, the 501(c)(3) organization shall remit to the secretary the full application fee as required pursuant to [§ 3-17-104\(c\)\(2\)](#), less the reduced fee remitted with the annual event application. Any payment to be remitted pursuant to this subdivision (g)(2)(A) shall be submitted with the financial accounting report.

(B) An organization required to remit an additional payment pursuant to subdivision (g)(2)(A) shall, in the next annual event application period, pay the full application fee as required pursuant to [§ 3-17-104\(c\)\(2\)](#).

§ 3-17-107. Annual event records; disclosure

Applications, reports, and all other documents and information required to be filed under this chapter, or by the secretary, shall be public records in the office of the secretary. The secretary, in the secretary's discretion, may compile, summarize, publish, or otherwise release to the public any information contained in applications and any other documents filed with or received by the secretary under this chapter.

§ 3-17-108. Annual event records; maintenance and inspection

(a) Every 501(c)(3) organization subject to the provisions of this chapter and the rules and regulations prescribed by the secretary, shall keep:

(1) True and accurate fiscal records including, but not limited to, all income and expenses; and

(2) True and accurate records regarding the conduct of any annual event, including records of any documents, information, notices, or applications required to be prepared or filed pursuant to this chapter. Unless otherwise provided, such records shall be retained for a period of at least five (5) years after the event date to which they relate.

(b) Upon request and at a reasonable time and place within Tennessee, such records, as well as any other records regarding annual events within this state, shall be made available to the secretary, the charitable gaming oversight committee on the Tennessee education lottery corporation, the attorney general and reporter, or an appropriate district attorney general for inspection.

§ 3-17-109. Annual event prizes and awards; winners

(a) No ticket, share, chance or similar record shall be purchased by and no prize or award shall be paid to:

(1) Any member of the board of directors of a 501(c)(3) organization authorized by the general assembly to operate an annual event for such organization;

(2) Any officer or employee of a 501(c)(3) organization authorized by the general assembly to operate an annual event for such organization;

(3) Any member of the immediate family of any person described in subdivisions (a)(1) or (a)(2) residing as a member of the same household in the principal place of residence of any such person;

(4) Any member of the general assembly during such member's term of office as a member of the general assembly; or

(5) The secretary or any employee of the secretary during the secretary's term of office and such employee's term of employment with the secretary.

(b) No ticket, share, chance or similar record for any specific authorized annual event shall be purchased by, and no prize or award shall be paid to:

(1) Any person providing printing services, telephone services and any records, devices or other gaming related supplies to conduct such specific authorized annual event;

(2) Any officer, employee, agent or subcontractor of any person described in subdivision (b)(1); or

(3) Any member of the immediate family of any person described in subdivisions (b)(1) or (b)(2) residing as a member of the same household in the principal place of residence of any such person.

(c) For the purposes of this section, "immediate family" means a spouse, child, step-child, brother, sister, son-in-law, daughter-in-law, parent or grandparent.

(d) No ticket, share, chance or similar record for any specific authorized annual event shall be purchased by, and no prize or award shall be paid to, any individual providing prizes or any member of the immediate family of any individual providing prizes residing as a member of the same household in the principal place of residence of such individual.

§ 3-17-110. Annual event prizes and awards; value

(a) The ticket, share, chance or other similar record shall bear on its face the name of the 501(c)(3) organization on whose behalf the event is being conducted.

(b) All cash prizes or awards exceeding fifty dollars (\$50.00) shall be paid by check from a designated account of the organization to a named individual. In the case of non-cash prizes or awards, payment shall be in the form of goods or services and, if applicable, by an appropriate legal instrument including, but not limited to, deeds, titles and gift certificates. Checks or other legal instruments payable to "cash" or "bearer" are expressly prohibited.

(c)(1) For single location annual events, the total value of all prizes awarded per annual event shall not exceed two hundred fifty thousand dollars (\$250,000); provided, that such limitation shall not apply to prizes of real property.

(2) For multiple location annual events, the total value of all prizes awarded per annual event location shall not exceed one hundred fifty thousand dollars (\$150,000); provided, that such limitation shall not apply to prizes of real property.

(3) Notwithstanding subdivisions (c)(1) and (2), for annual events conducted pursuant to applications filed under the provisions of [§§ 3-17-103\(f\)](#) and [3-17-104\(e\)](#), the total value of all prizes awarded per annual event shall not exceed twenty-five thousand dollars (\$25,000).

(d) Authorized 501(c)(3) organizations offering a prize of real property pursuant to the provisions of subsection (c) may offer a cash equivalent prize not to exceed the fair market value of the real property; provided, that any such cash equivalent prize shall be disclosed in the rules of the specific annual event prior to the sale of any ticket, share, chance or other similar record for such annual event and, if a cash equivalent prize is awarded, shall comply with the provisions of subsection (b).

§ 3-17-111. Violations; disqualification from submitting annual event applications

Any person who is convicted of a violation of [§§ 39-16-702](#) or [39-16-703](#), or [title 39, chapter 17](#), parts 5 and 6 shall be permanently disqualified from submitting an annual event application.

§ 3-17-112. Preemption

The general assembly, by enacting this chapter, intends to preempt any other regulation of the area covered by the provisions of this chapter. No political subdivision or agency may enact or enforce a law, ordinance, resolution or regulation that regulates or prohibits any conduct in the area covered by this chapter.

§ 3-17-113. Annual event compliance; penalties; investigations

(a) The secretary may publicly or privately investigate, as the secretary of state deems necessary, any person or organization that the secretary has reason to believe has violated any provision of this chapter. The secretary may assess a civil penalty against any person, or a 501(c)(3) organization, not to exceed fifty thousand dollars (\$50,000) for a violation of this chapter or any rule or regulation adopted pursuant to the provision of this chapter. Any hearing on the imposition of a civil penalty pursuant to the provisions of this section shall be in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) The Tennessee bureau of investigation shall have jurisdiction over, and shall investigate, violations of [§§ 39-17-651 -- 39-17-657](#) and reports of official misconduct concerning the provisions of this chapter in a manner consistent with the provisions of title 38, chapter 6, part 1.

(c) The provisions of subsection (a) shall apply to applications and annual events to be conducted on and after July

1, 2005.

§ 3-17-114. Criminal background checks; immunity

(a) The secretary of state may establish, by duly promulgated rules and regulations, the procedures and criteria for requiring and obtaining criminal background checks for officers, directors, trustees, and the principal salaried executive staff officer who will operate the annual event for a 501(c)(3) organization. No background check shall be conducted on any such person unless the secretary finds good cause, based upon objective criteria, that the information contained in the annual event application, or supporting documentation, is ambiguous, false or insufficient; provided, that a background check may be required for good cause if based upon reliable information from a law enforcement agency. The secretary of state may utilize the Tennessee bureau of investigation or the federal bureau of investigation to conduct criminal background checks.

(b) Procedures and payments of costs associated with criminal background checks shall be governed by §§ 38-6-103 and 38-6-109. The 501(c)(3) organization that has filed an annual event application shall be responsible for payment of all criminal background checks required by this section. The secretary of state shall not pay for any criminal background check required by this section.

(c) Criminal background checks may include fingerprint checks against state and federal criminal records maintained by the Tennessee bureau of investigation and the federal bureau of investigation.

(d) The secretary of state shall be immune from suit for declining to approve the conducting of an annual event based upon criminal background information received pursuant to this section.

(e)(1) In the event that the secretary establishes procedures and criteria for requiring and obtaining criminal background checks, such checks shall not be performed upon officers, directors or trustees who receive no compensation for their duties associated with the 501(c)(3) organization.

(2) In the event that the secretary establishes procedures and criteria for requiring and obtaining criminal background checks, such provisions shall only apply to annual event applications for the operation of annual events to be conducted on and after July 1, 2005.

§ 3-17-115. Secretary of state rules and regulations

(a) The secretary of state is authorized to promulgate rules and regulations as the secretary of state may deem necessary to effectuate the purposes of this chapter. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) Notwithstanding the provisions of §§ 4-5-208 and 4-5-209 or any other provision of law to the contrary, the secretary of state is authorized to promulgate public necessity rules and emergency rules to implement the provisions of this chapter.

§ 3-17-116. Claims commission rules and regulations

(a) The Tennessee claims commission is authorized to promulgate rules and regulations as the commission may deem necessary to effectuate the purposes of this chapter. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

(b) Notwithstanding the provisions of §§ 4-5-208 and 4-5-209 or any other provision of law to the contrary, the Tennessee claims commission is authorized to promulgate public necessity rules and emergency rules to implement the provisions of this chapter.

Current with laws from the 2007 First Reg. Sess., eff. through May 15, 2007
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